

1 Howard Kaloogian, State Bar No. 118954
2 Lowell Robert Fuselier, State Bar No. 14070
3 David T. Hayek, State Bar No. 144116
4 Kaloogian & Fuselier LLP
5 2382 Faraday Avenue, Suite 130
Carlsbad, California 92008
Tel. 760-522-1802
Fax. 760-431-1116

Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
Southern District of California

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11 SAN DIEGO MINUTE MEN

Case Number: 08CV0210 WQH [RBB]

12 Plaintiff,

SUPPLEMENTAL DECLARATION OF
LOWELL ROBERT FUSELIER, ESQ. RE
ADDITIONAL EVIDENCE AND EXHIBITS

13 vs.

14 DALE BONNER in his Official Capacity
15 as Agency Director, Business,
Transportation and Housing Agency;
16 WILL KEMPTON in his Official
Capacity as CalTrans Director; PEDRO
17 ORSO-DELGADO in his Official
Capacity as Caltrans District Director and
DOES I through 50,

18 Defendants.

19
20 I, Lowell Robert Fuselier, declare as follows:

21 1. All of the facts set forth herein are within my personal knowledge; if called as a
22 witness, I could and would testify competently thereto.

23 2. I am an attorney duly licensed to practice before this Court and represent Plaintiff San
24 Diego Minutemen in the above-entitled matter.

25 3. On March 20, 2008, I took the deposition of Defendant William Alan Kempton.
26 Included in the Notice of Deposition was a request to produce documents, including a
27 request to produce all documents relating to the Plaintiff's Adopt-A-Highway permit.

28

1 Attached hereto as Exhibit 1 is a true and correct copy of the Notice of Deposition of
2 Will Kempton with Production of Documents.

3 4. Today, my investigation uncovered a letter dated January 24, 2008 addressed to Mr.
4 Kempton from the California Latino Legislative Caucus and signed by legislators Joe
5 Coto and Gilbert Cedillo. A true and correct copy of this letter and attachments is
6 attached as Exhibit 2. This document was not produced at the deposition of Mr.
7 Kempton, nor at any time by the Defendants though clearly requested.
8 5. The letter is a confirmation and thank you from the Latino Legislative Caucus to Mr.
9 Kempton that as a result of their meeting with him he committed to them that he would
10 immediately revoke the Minutemen permit because of their concerns about the message
11 of the Minutemen to the community.
12 6. The letter from the Latino Legislative Caucus makes it clear that Mr. Kempton revoked
13 Plaintiff's Adopt-A-Highway permit not for reasons of safety, but because of pressure
14 placed on Mr. Kempton by the Caucus. The penultimate paragraph of the letter
15 recounts:

16 We applaud you for understanding the sensitivity of this issue. Your
17 commitment to immediately revoking this organization's [Plaintiff's] permit
18 to adopt a highway and the removal of the sign in San Diego is the most
19 prudent approach in avoiding any future violence and discrimination. The
Latino Caucus will continue to insist that the history of discrimination and
violence by the Minutemen is enough evidence to permanently ban this
organization from ever participating in the Adopt-A-Highway Program.

20 7. The letter establishes that the issues presented to Mr. Kempton and the reasons for
21 revoking the permit were not safety for the traveling public but were:
22 a. The message of the Minutemen opposing illegal immigration;
23 b. That the anti-illegal immigration message supposedly causes an *increase in hate*
crimes committed against Latinos;
24 c. That the Caucus believes that the *San Diego Minutemen is an organization that for*
many years has fostered violence and discrimination against Latinos. (Although Mr.
25 Kempton's subsequent investigation proved otherwise); and
26
27

1 d. That Mr. Kempton committed to revoking the permit based on those issues – not
2 safety relating to the location.

3 8. The substance of the letter in combination with Mr. Kempton's deposition testimony
4 also establishes an interesting sequence of events:

5 a. First, the Latino community complains about the sign because of the message it
6 sends to the community at large;

7 b. Demands are made to remove the sign because of that message;

8 c. Mr. Kempton committed to remove the sign because of the claims that the
9 Minutemen organization *advocates violence, violation of the law, or discrimination*
10 *based upon race, religion, color, national origin, ancestry* and therefore may not
11 *participate in the Adopt-A-Highway Program.*¹

12 d. Mr. Kempton then had the California Highway Patrol conduct an investigation of
13 the Minutemen, and he personally conducted an investigation of his own only to
14 learn that the Minutemen did not advocate violence, violation of law, hate of any
15 group, and did no discriminate based on race, religion, color, national origin,
16 ancestry or any other basis, but instead only advocated the enforcement of the laws
17 of the United States of America and the State of California. *See Reply re Motion for*
18 *Preliminary Injunction* [Doc #31] at Ex. 2, pp. 33-36 (*Kempton depo.* [89:2-92:3]) and
19 Ex. 2, pp. 23-24 (*Kempton depo.* [23:17-24:5]).

20 9. But cognizant of the constitutional issues and his earlier commitment to the Latino
21 Caucus to revoke the permit, Mr. Kempton had Caltrans shift its justification to “safety
22 and operational concerns.”

23 //

24 //

1 Mr. Kempton, like many uninformed people, initially believed the misinformation
27 provided by the Latino Legislative Caucus about Minutemen violence and discrimination, accepting
28 it at face value and believing it to be true.

1 10. Had this document been produced, I would have had an opportunity to question Mr.
2 Kempton regarding its contents and the fact that its contents directly contradict his
3 deposition testimony in several key areas relative to the decision to revoke Plaintiff's
4 permit.

5 11. Defendants' concealment of this letter demonstrates its *mens rea* relative to the decision
6 to revoke Plaintiff's Adopt-A-Highway permit. Plaintiff requests the Court consider
7 this letter and attachments in connection with the pending motions set for hearing on
8 May 9, 2008, as well as Defendants' concealment of this document.

9
10 I declare under penalty of perjury under the laws of the United States of America that
11 the foregoing is true and correct.

12 EXECUTED this 6th day of May, 2008, at Carlsbad, California.
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15 /s/ Lowell Robert Fuselier
16 Lowell Robert Fuselier, Esq.
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EXHIBIT 1

1 Howard Kaloogian, State Bar No. 118954
2 Lowell Robert Fuselier, State Bar No. 14070
2 David T. Hayek, State Bar No. 144116
3 Kaloogian & Fuselier LLP
3 2382 Faraday Avenue, Suite 130
4 Carlsbad, California 92008
4 Tel. 760-522-1802
5 Fax. 760-431-1116
5 Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
Southern District of California

9

10 SAN DIEGO MINUTE MEN

11 Plaintiff,

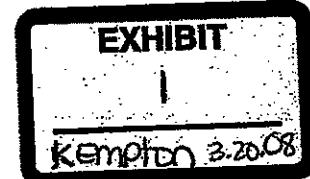
12 vs.

13 DALE BONNER in his Official Capacity
14 as Agency Director, Business,
15 Transportation and Housing Agency;
16 WILL KEMPTON in his Official
17 Capacity as CalTrans Director; PEDRO
18 ORSO-DELGADO in his Official
19 Capacity as Caltrans District Director and
DOES 1 through 50,

Defendants.

Case Number: 08CV0210 WQH [RBB]

**NOTICE OF DEPOSITION OF WILL
KEMPTON**



20 **TO EACH PARTY AND RESPECTIVE COUNSEL OF RECORD HEREIN:**

21 YOU ARE HEREBY NOTIFIED THAT THE DEPOSITION OF Will Kempton be taken
22 at the offices of Jeffrey R. Benowitz, Esq., California Department of Transportation, located
23 at M/S 130, 4050 Taylor Street, San Diego, California, commencing at 10:00 a.m. on March
24 18, 2008 and continuing from day to day until complete.

25
26 YOU ARE FURTHER NOTIFIED THAT the deponent, who is a party to this action, is
27 required to produce the documents, records, or other materials at said deposition identified
28 in Exhibit "A" attached hereto.

1 A list of all the parties or attorneys for parties on whom this Notice of Deposition is being
2 served is shown on the accompanying Proof of Service.

3

4 DATED: March 7, 2008

5

6

Lowell Robert Fuselier, Esq.

7 David T. Hayek, Esq.

Kaloogian & Fuselier, LLP

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9 Attorneys for Plaintiff

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EXHIBIT "A"
TO NOTICE OF DEPOSITION OF WILL KEMPTON

DOCUMENT LIST

1. Your appointment book, calendar, scheduler, and/or any other documentation that records appointments for December 2007, January 2008, and February 2008.
2. All documents related to the San Diego Minutemen's application for an adopt-a-highway sign, excluding attorney work product and attorney client communications.
3. All documents which relate to the approval of the San Diego Minutemen's application for an adopt-a-highway sign, excluding attorney work product and attorney client communications.
4. All documents which relate to permit no. 11-07NAH0586.
5. All of the studies related to safety issues regarding the adopt-a-highway sign location designated ND 5: SD66.3-SD68.3.
6. All written communications regarding the moving of the San Diego Minutemen adopt-a-highway sign to a location other than ND 5: SD66.3-SD68.3, excluding attorney work product and attorney client communications.
7. All memoranda regarding the moving of the San Diego Minutemen adopt-a-highway sign to a location other than ND 5: SD66.3-SD68.3, excluding attorney work product and attorney client communications.
8. All documentation that supports any contention that location ND 5: SD66.3-SD68.3 of the San Diego Minutemen adopt-a-sign was unsafe, excluding attorney work product and attorney client communications.
9. All documents which relate to any other permittee in the Adopt A Highway program assigned location ND 5: SD66.3-SD68.3 at any time.
10. All notes of meetings with any person (other than meetings solely with legal counsel) regarding the San Diego Minutemen's participation in the Adopt A Highway Program.
11. All e-mail received by your office (excluding communications from legal counsel) regarding the San Diego Minutemen's participation in the Adopt A Highway Program.
12. All e-mail received by your office (excluding communications from legal counsel) regarding location ND 5: SD66.3-SD68.3.
13. All e-mail received by your office (excluding communications from legal counsel) regarding permit no. 11-07NAH0586.
14. All notes regarding the substance of telephone calls made by your office to anyone (excluding legal counsel) regarding the San Diego Minutemen's participation in the Adopt A Highway Program.
15. All notes regarding the substance of telephone calls received by your office from anyone (excluding legal counsel) regarding the San Diego Minutemen's participation in the Adopt A Highway Program.

- 1 16. All press releases made by your office regarding the San Diego Minutemen's
- 2 participation in the Adopt A Highway Program.
- 3 17. All documents relating to the relocation of any permittee in the Adopt A Highway
- 4 program from his/her/its originally permitted location to another location.
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EXHIBIT 2

Jan-25-2008 04:41pm

From:SENATOR GIL CEDILLO

916 327 8817

T-694 P.002 F-182



Chair
Assm. Joe Coto

Vice Chair
Sen. Gil Cedillo

Senators:
Ron Calderon
Lou Correa
Denise Moreno Ducheny
Dean Florez
Gloria Negrete-McLeod
Jenny Oropeza
Alex Padilla
Gloria Romero

Assembly Members:
Juan Arambula
Anna Caballero
Charles Calderon
Hector De La Torre
Kevin De Leon
Felipe Fuentes
Ed Hernandez
Tony Mendoza
Pedro Nava
Fabian Nuñez
Nicole Parra
Mary Salas
Lori Saldaña
Jose Solorio
Nell Solo
Alberto Torrico

State Capitol
Room 2013
Sacramento, Ca 95814
Tel. 916-319-2023
Fax 916-319-2123

CALIFORNIA
LATINO LEGISLATIVE CAUCUS

January 24, 2008

Will Kempton, Director
California Department of Transportation
1120 N Street, MS-49
Sacramento, CA 95814

Dear Mr. Kempton:

On behalf of the California Legislative Latino Caucus, we would like to thank you for meeting with us and discussing our concern with the San Diego Minutemen adopting a California highway near the México border.

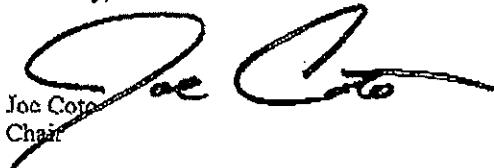
The San Diego Minutemen is an organization that for many years has fostered violence and discrimination against Latinos. The California Department of Transportation (DOT) guidelines state that "[e]ntities that advocate violence, violation of the law, or discrimination based upon race, religion, color, national origin, ancestry...may not participate in the Adopt-A-Highway Program." As we discussed in the meeting, based on existing guidelines, the DOT should have automatically disqualified this group from participating in the Adopt-A-Highway program. The DOT's guidelines are in place to keep the state from sanctioning this behavior. It is not in the state's best interest to give recognition to groups that promote discrimination and have a history of violence.

Our concern comes at a time of sharp increase in hate crimes against Latinos throughout the nation. A recent Federal Bureau of Investigation report demonstrates that the anti-immigrant campaigns have had a major impact on the increase of these crimes. This is evident in San Diego County where there has been a 23% increase in hate crimes committed against Latinos. Studies have revealed a nexus between the Minutemen and the increase in hate crimes in areas such as San Diego. We also brought to your attention specific instances when one of our members, Assemblywoman Lori Saldaña (D-76), was confronted by the San Diego Minutemen who intentionally attempted to obstruct community events in her district. On two different occasions she contacted law enforcement and filed police reports, which are attached for your review.

We applaud you for understanding the sensitivity of this issue. Your commitment to immediately revoking this organization's permit to adopt a highway and the removal of the sign in San Diego is the most prudent approach in avoiding any future violence and discrimination. The Latino Caucus will continue to insist that the history of discrimination and violence by the Minutemen is enough evidence to permanently ban this organization from ever participating in the Adopt-A-Highway Program.

Thank you for your consideration on this matter. Please feel free to contact us with any questions at (916) 651-4022 or (916) 319-2023.

Sincerely,


Joe Coto
Chair


Gilbert Cedillo

Gilbert Cedillo
Vice-Chair

cc: Regina Evans, Office of Governor Schwarzenegger

2008-01-25

EXHIBIT 2

Jan-25-2008 04:41pm From-SENATOR GIL CEDILLO

916 327 8817

T-694 P.003 F-182

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
ARREST - INVESTIGATION REPORT
-216 (Rev. 1-08) OPI 004

TIME OF ARREST/REPORT DATE/TIME OF INCIDENT SAME
12-13-07 / 1830

CITATION NUMBER OFFENSE(S) CHARGED OR INVESTIGATED
INCIDENT REPORT # (415 PC) (VERBAL)

<input type="checkbox"/> DOMESTIC VIOLENCE (REFER HPM 100.69)		<input type="checkbox"/> MISSING PERSON (REFER HPM 100.69)		PAGE 1 OF 6	
COURT SDPC		FILE NUMBER 200704038		EVIDENCE/PROPERTY	
AREA 645	BEAT 901	COLLISION REPORT NUMBER		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
				E.	

LOCATION OF ARREST/INCIDENT DALTOA PARK CLUBS - TRACTION PARK

SUB 0216 REQUIRED YES NO

NUMBER

SUBJECT NO. 1 OF 3

NAME (LAST, FIRST, MIDDLE) POLLACK, LADRIEL ALFONSO

RESIDENCE ADDRESS 917 1/2 S. 10TH ST. STE 100, SAN FRANCISCO, CA 94103

MAILING ADDRESS 917 1/2 S. 10TH ST. STE 100, SAN FRANCISCO, CA 94103

SAME

RACE/ETHNICITY SEX BIRTHDATE HAIR EYES HEIGHT WEIGHT PLACE OF BIRTH/CITY, STATE, COUNTY

ASIAN MALE BROWN BROWN 5'11" 174

DRIVER LICENSE NUMBER STATE IDL STATUS MRSC. (SSN, INS. #, ETC.)

5414400 SAME AS SUBJECT

EMPLOYER BUSINESS PHONE BUSINESS ADDRESS

SAME AS SUBJECT

BOOKING, CI, PI, ETC, NUMBER(S) WHERE BOOKED/CONFINED DATE/TIME

SAME AS SUBJECT YES NO

NOTIFICATION (WHO, HOW, WHEN) EXPLAIN IN NARRATIVE

JUVENILE FOREIGN NATIONAL IMMUNITY CLAIM

NOTIFIED BY

SAME AS SUBJECT

VEHICLE

LICENSE STATE YEAR VIN/EN NUMBER

VEH. YEAR MAKE BODY STYLE COLOR BODY TYPE LOCATION OF VEHICLE RELEASED TO ADDRESS/TELEPHONE NUMBER

NAME OF REGISTERED OWNER SAME AS SUBJECT ADDRESS SAME AS SUBJECT

NAME OF LEGAL OWNER SAME AS PO ADDRESS LOCATION OF KEYS

SAME AS SUBJECT

WITNESS

BIRTHDATE SEX NAME WITNESS PASSENGER ADDRESS/AGENCY

9-26-76 F KIRIEN CLEMONS RES: BUS:

WITNESS PASSENGER

2-12-70 M EDDIE MEYER RES: BUS:

WITNESS PASSENGER

WITNESS PASSENGER

PHONE

1 NAME ADDRESS

BIRTHDATE SEX DRIVER LICENSE NUMBER STATE DAY PHONE EVENING PHONE

1-17-58 F SAME AS SUBJECT

VER. LIC. # STATE YEAR MAKE BODY STYLE COLOR BODY TYPE

~10 SAME AS SUBJECT

2 NAME ADDRESS

BIRTHDATE SEX DRIVER LICENSE NUMBER STATE DAY PHONE EVENING PHONE

VER. LIC. # STATE YEAR MAKE BODY STYLE COLOR BODY TYPE

VEH. LIC. # STATE YEAR MAKE BODY STYLE COLOR BODY TYPE

MISDEMEANOR INCARCERATION (To be completed upon physical arrest for any misdemeanor, pursuant to Penal Code Section 853.0)

As determined by the arresting officer, the person arrested

- was so intoxicated as to be a danger to himself or others.
- required medical examination or medical care or was otherwise unable to care for his/her own safety.
- was charged with one or more of the offenses listed in Section 40302 of the Vehicle Code. (Refer paragraphs five and eight).
- had one or more outstanding arrest warrants issued.
- could not provide satisfactory evidence of personal identification.
- if released immediately, would jeopardize the prosecution of the offense or offenses for which arrested or the prosecution of any other offense.
- would be reasonably likely to continue the offense or offenses, or the safety of persons or property would be immediately endangered if immediately released.
- demanded to be taken before a magistrate or refused to sign the citation.
- would not appear at the time and place specified in the notice.
- domestic violence (refer to HPM 100.69)

ARRESTING/INVESTIGATING OFFICER (PRINT NAME / RANK)	ID. NUMBER	REVIEWED BY (PRINT NAME / RANK)	ID. NUMBER	DATE
VALENZUELA, OFFICER	15847	5-1	12572	12-14-07

Use previous editions until depleted.

c216_109.fnp

EXHIBIT 2

Jan-25-2008 04:42pm From-SENATOR GIL CEDILLO

916 327 8817

T-694 P.004/018 F-182

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
ARREST-INVESTIGATION REPORT
 IP 216 (12-93) OPI 004

TIME OF ARREST/REPORT

DATE/TIME OF INCIDENT

12-13-07 11:30

<input type="checkbox"/> Misdemeanor	<input type="checkbox"/> Domestic Violence (REFER TO 100.82)	<input type="checkbox"/> Missing Person (REFER TO 100.16)	PAGE 7 OF 6	
<input type="checkbox"/> Felony	<input type="checkbox"/> COURT SDPC	<input type="checkbox"/> FILE NUMBER	EVIDENCE/PROPERTY	
<input checked="" type="checkbox"/> Other	<input type="checkbox"/> AREA 645	<input type="checkbox"/> BEAT 901	<input type="checkbox"/> YES <input type="checkbox"/> NO	E-_____
COLLISION REPORT NUMBER				

LOCATION OF ARREST/INCIDENT

BALBOA PARK CLUB - BALBOA PARK

CITATION NUMBER

OFFENSE(S) CHARGED OR INVESTIGATED
X INCIDENT REPORT X 415 PC - VENZAL JUD 8716 REQUIRED YES NO

SUBJECT NO. OF _____

NAME (last, first, middle)

BAUGH, WESLEY ALLEN

AKA

RESIDENCE ADDRESS

41504 BAYSHORE DR. SAN JOSE, CA 95128

MAILING ADDRESS

 SAME

RACE/ETHNICITY

SEX

BIRTHDATE

HAIR

EYES

HEIGHT

WEIGHT

PLACE OF BIRTH (city, state, country)

DISPATCH NOTIFIED

 YES NO

DRIVERS LICENSE NUMBER

STATE

CDL STATUS

MISC. (SSN, INSN, ETC.)

TIME:

ID. NO.

EMPLOYER

ADDRESS

LOG NO. 644

BOOKING, CIU, FBI, ETC., NUMBER(S)

WHERE BOOKED/CONFIRMED

DATE/TIME

FINGERPRINTED

 YES NO

NOTIFICATION (WHO, HOW, WHEN) EXPLAIN IN NARRATIVE

NOTIFIED BY:

 JUVENILE FOREIGN NATIONAL IMMUNITY CLAIM

VEHICLE

LICENSE

STATE

YEAR

VIN/EN NUMBER

VEHICLE WAS

 STORED RECOVERED RELEASED IMPOUNDED

LOCATION OF KEYS

VEH. YEAR

MAKE

BODY STYLE

COLOR

BODY TYPE

LOCATION OF VEHICLE/RELEASED TO ADDRESS/TELEPHONE NUMBER

NAME OF REGISTERED OWNER

 SAME AS SUBJECT

ADDRESS

 SAME AS DRIVER

NAME OF LEGAL OWNER

 SAME AS R/O

ADDRESS

WITNESS/PASSENGER

BIRTHDATE

SEX

 WITNESS PASSENGER

ADDRESS/AGENCY

 WITNESS PASSENGER WITNESS PASSENGER WITNESS PASSENGER

Jan-25-2008 04:42pm From-SENATOR GIL CEDILLO

916 327 0017

T-694 P.005/018 F-182

STATE OF CALIFORNIA

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

CRIME DATA SUPPLEMENTAL, STATE PROPERTY AND EMPLOYEES

CHP 216S (Rev. 1-04) OPI 020

Page 4 of 6

FILE NUMBER

WORKPLACE VIOLENCE

 Type I Type II Type III

STATE/DEPARTMENT INVOLVED

DEPARTMENT CODE

STATE ASSEMBLY MEMBER, 76TH DISTRICT	CITY	ZIP CODE	COUNTY
1557 COLUMBIA ST.	SAN DIEGO	92101	SAN DIEGO
SUBJECT #1 (LAST, FIRST, M.I.)		PERSON CODE	CITATION NUMBER
SALDANA, LORI			
SUBJECT #2 (LAST, FIRST, M.I.)		PERSON CODE	CITATION NUMBER
CLEMONS, KIRSTEN			
SUBJECT #3 (LAST, FIRST, M.I.)		PERSON CODE	CITATION NUMBER
MEYER, ENDIE			
SUBJECT #4 (LAST, FIRST, M.I.)		PERSON CODE	CITATION NUMBER

PERSON CODES: Indicate above the appropriate Person Code from the chart below.

S	SUSPECT	Person was suspected, arrested or cited for a public offense.
V	VICTIM	Person was a victim of a public offense, or suffered a loss or injury.
W	WITNESS	Person witnessed the offense or provided testimony concerning the incident.
RP	REPORTING PARTY	Person reported information regarding the crime or incident.
PI	PERSON INVOLVED	Person is in some way involved with the incident, and no other code applies.

DISPOSITION CODES: Indicate below the appropriate Disposition Code from the chart below.

*	UNFOUNDED	Used when information was developed that shows no reportable crime or incident occurred.
~	RESOLVED AT SCENE	Used when a crime or incident was resolved at the scene or by the reporting officer, or the matter requires no further follow-up. Includes incidents resulting in a "field interview" when no further follow-up is necessary.
3	NOT CLEARED	Used when a crime or incident has not been resolved and no other Disposition Code applies.
4	ARRESTED/CITED	Used when any subject is taken into custody and booked, or issued a citation for any offense by the CHP.
5	TURNED OVER TO OTHER AGENCY/ON STATE PROPERTY	Used when a crime or incident that occurred on state property was turned over to another agency, including alarms over to local agencies for their response.
6	TURNED OVER TO OTHER AGENCY/OFF STATE PROPERTY	Used when a crime or incident that occurred off state property, initially handled by the CHP, was turned over to another agency.
7	BACK-UP OTHER AGENCY/OFF STATE PROPERTY	Used when a crime or incident that occurred off state property was handled by another state agency where the CHP provided back-up assistance only.
8	INVESTIGATION/FOLLOW-UP CLEARANCE	Used as a supplemental disposition when a crime or incident was cleared as the result of follow-up investigation or review as documented in a supplemental report. Includes cases where no further follow-up is anticipated due to lack of available or further information.

If report involves a monetary loss due to burglary, theft, robbery, or vandalism, attach a copy of the completed CHP 729, Uniform Crime Report.

ARRESTING/INVESTIGATING OFFICER		I.D. NUMBER
VALENZUELA		15842
REVIEWING SUPERVISOR	DATE	I.D. NUMBER
SPECIAL FOLLOW-UP INVESTIGATOR		I.D. NUMBER
SUPERVISOR AUTHORIZING FOLLOW-UP		I.D. NUMBER
FOLLOW-UP ASSIGNED TO	DATE	I.D. NUMBER
DISPOSITION CODE	CIRCS DATA ENTRY OPERATOR I.D. NUMBER	CIRCS ENTRY DATE

Commands shall forward to their designated CIRCS data-entry point copies of the completed CHP 216S along with the corresponding report (i.e. CHP 216/CHP 202), and Uniform Crime Report, if necessary. Division CIRCS Coordinators may be contacted for specific routing procedures.

Use Previous Editions

c216s104.01p

01/25/2008 FRI 11:53 [TX/RX NO 8037] 004

EXHIBIT 2

Jan-25-2008 04:42pm From-SENATOR GIL CEDILLO

916 927 0017

T-694 P.006/018 F-182

LAST NAME, FIRST NAME, AND MIDDLE INITIAL

CITATION/CASE NO.

PAGE

3 OF 6

ARREST - INVESTIGATION REPORT NARRATIVE (CONTINUED)

ADMONITION OF RIGHTS

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
 2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.

3. YOU HAVE THE RIGHT TO TALK WITH AN ATTORNEY AND TO HAVE AN ATTORNEY PRESENT BEFORE AND DURING QUESTIONING.

4. IF YOU CANNOT AFFORD AN ATTORNEY, ONE WILL BE APPOINTED FREE OF CHARGE TO REPRESENT YOU BEFORE AND DURING QUESTIONING, IF YOU DESIRE.

THE ABOVE STATEMENT WAS READ TO THE ARRESTEE BY: ARRESTING OFFICER OR:

DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?

HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?

WAIVER STATEMENT

 YES NO YES NO

✓/n

ID.

TIME

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05/26/2008 04:42:50 PM

01/26/2008 04:42:50 PM

EXHIBIT 2

Jan-26-2008 04:49pm From-SENATOR GIL CEDILLO

916 327 8817

T-694 P.007/018 F-182

California Highway Patrol
ARREST/INVESTIGATION
NARRATIVE

Page 5

Date	Time	NCIC	Officer I.D.	Number
12-13-07	1830	9645	15847	

SUMMARY (FACTS):**Notification:**

On 12-13-07 at approximately 1845 hours I received a call of a disturbance (415PC) at the Balboa Park Club in Balboa Park, where State Assemblywoman Lori Saldana was speaking at a holiday awards presentation. Responding from s/b I-5 at 28th St., I arrived on scene at approximately 1900 hours.

First Observations:

Upon my arrival, I was contacted by District Director Kirsten Clemons who related that the subjects who were causing the disturbance were no longer present at this location. Witness Clemons did not appear to be injured in any way, nor were any injuries claimed by any witness or victim.

Statements:

Victim (Saldana) was contacted at the scene by CHP Officer K.P.Jackman #17480 and related the following. She was speaking at this awards presentation which was scheduled from 1730-1830 hours. At the conclusion of the presentation, 5 members of the audience (4 men, 1 woman) whom she did not recognize approached the podium and wanted to speak to her. Two individuals later identified as Gabriel Alfonso Pollack, [REDACTED], and Wesley Allen Baugh DOB [REDACTED] began to question her. Pollack presented an audio recorder and identified himself as the leader of the Minutemen. He and Baugh brought up issues regarding immigration and the environment. She advised them that it was a holiday event, and to call her office to discuss those issues further. They refused to leave and continued to question her. She then walked out to the foyer and talked with them for approximately 10 minutes before she asked Kirsten to call the police. In addition, she related that there was no physical contact or threats by the individuals, they simply refused repeated requests to leave.

Witness (Clemons) was contacted at the scene and related the following. At approximately 1830 hours, she noticed Mr. Pollack with a nametag that read "Minutemen". She let other staff members know that there could be a potential problem with Mr. Pollack. At approximately 1832 hours, Mr. Pollack and other members approached Ms. Saldana and began to question her about immigration issues and previous meetings. She then approached Mr. Pollack, tapped his arm, and told him to please leave. He stated to her "you're touching me". They continued to question Ms. Saldana for approximately 15 minutes before they finally left right before CHP arrived.

Preparer's Name	ID	Date	Reviewer's Name	Date
D. Valenzuela	15847	12/14/07		

Jan-25-2008 04:43pm From-SENATOR GIL CEDILLO

916 327 0817

T-694 P.008/018 F-182

California Highway Patrol
ARREST/INVESTIGATION
NARRATIVE

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Date	Time	NCIC	Officer I.D.	Number
12-13-07	1830	9645	15847	

Witness (Meyer) was contacted at the scene and related the following. There were six or seven in the group all around Ms. Saldana. Mr. Baugh and Mr. Pollack both signed in on the guest list at the front desk. Mr. Baugh began to ask why he was not allowed to speak at their previous event at St. Paul's Church. Mr. Pollack was recording as Mr. Baugh questioned Ms. Saldana. He approached Mr. Baugh, tapped his shoulder and related to him that this was a holiday party and should contact Ms. Saldana's office for further questions. Mr. Baugh turned and stated "don't touch me, I just want to ask questions". Mr. Baugh questioned Ms. Saldana on her position on immigration.

Injuries:

None

OPINIONS AND CONCLUSIONS:

On 12-13-07 at approximately 1830 hours, California Assemblywoman Lori Saldana was confronted by Mr. Pollack, and Mr. Baugh while speaking at a holiday awards presentation at Balboa Park. Mr. Pollack and Mr. Baugh claimed to be members of "Minutemen" and questioned Ms. Saldana on her position on immigration. Mr. Pollack and Mr. Baugh became disruptive and overly aggressive in their questioning of Ms. Saldana. Neither party was injured as a result of this confrontation. For this reason, no criminal charges will be filed against any party due to this incident.

RECOMMENDATIONS:

I recommend that this report be forwarded to CHP Officer R. Ramos 15196 for further follow up investigations.

Preparer's Name	ID	Date	Reviewer's Name	Date
D. Valenzuela	15847	12/14/07		

Jan-25-2008 04:43pm From-SENATOR GIL CEDILLO

916 327 0017

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CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
12-13-07	1845	9645	15196	

SUPPLEMENTAL

The following supplemental investigation was conducted by the California Highway Patrol (CHP), San Diego Area, Safety Services Program (SSP).

Personnel Involved: Officer R. Ramos (ID #15196)
Officer R. Fosbenner (ID #16204)

California Highway Patrol
San Diego Area
4902 Pacific Highway
San Diego, Ca. 92110
(619)220-5492, office
(619)296-6667, fax

PREPARER'S NAME AND I.D. NUMBER RAMOS #15196	DATE 12-13-07	REVIEWER'S NAME R. Fosbenner	DATE 12/21/07
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EXHIBIT 2

Jan-25-2008 04:44pm From-SENATOR GIL CEDILLO

916 327 8817

T-694 P.010/018 F-182

CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

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DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
12-13-07	1845	9645	15196	

SUPPLEMENTAL INVESTIGATIONCASE IDENTIFICATION:

Case Number: 200704638

Violations: 415 PC

Suspect #1: Gabriel Alfonso Pollack

████████████████████
 █████████████████████
 █████████████████████
 █████████████████████

Suspect #2: Wesley Allen Baugh

████████████████████
 █████████████████████
 █████████████████████
 █████████████████████

Victim: Assemblywoman Lori Saldaña
1557 Columbia St.
San Diego, Ca. 92101

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
RAMOS #15196	12-13-07		

01/25/2008 FRI 11:53 [TX/RX NO 8037] @009

EXHIBIT 2

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CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCURRENCE	TIME (A/M/P)	HCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
12-13-07	1845	9645	15196	

AGENCIES INVOLVED:

California Highway Patrol

San Diego Area

4902 Pacific Highway

San Diego, Ca. 92110

(619) 220-5492, office

(619) 296-6667, fax

Investigation:

Officer R. Ramos, #15196, primary investigating officer.

Follow-up Investigation Assist:

Officer R. Fosbenner, #16204, assist with follow-up

PREPARER'S NAME AND I.D. NUMBER RAMOS #15196	DATE 12-13-07	REVIEWER'S NAME	DATE
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Jan-25-2008 04:44pm From-SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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SUMMARY

On 12-13-07, between the hours of 1730 and 1900 hours, Assemblywoman Lori Saldana hosted a Holiday party at the Balboa Park Club (Santa Fe Room). Several Minutemen attended the party and approached Saldana at the conclusion of the awards presentation. Two of the Minutemen, identified as Gabriel Alfonso Pollack, #15857, and Wesley Allen Baugh, #17480, began asking questions regarding immigration issues. Although the party was open to the public, the Minutemen were disruptive to the party, and as a result, CHP was notified. Officers D. Valenzuela, #15857, and K. Jackman, #17480, responded to the initial call. Pollack, Baugh and other individuals associated with the Minutemen organization left the scene prior to CHP arrival. There were no injuries or threats reported. A follow up investigation is currently being conducted by Officer Ramos and Officer R. Fasbenner.

PREPARER'S NAME AND I.D. NUMBER RAMOS #15196	DATE 12-13-07	REVIEWER'S NAME	DATE
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01/25/2008 FRI 11:53 [TX/RX NO 8037] 011

EXHIBIT 2

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Jan-25-2008 04:46pm From-SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL

NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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INVESTIGATIVE NARRATIVE

On 12-14-07, at approximately 1030 hours, I was notified by San Diego Area Sgt. C. Lloyd, #12462, of an incident involving Assemblywoman Lori Saldana. The incident occurred on December 13, 2007 at approximately 1830 hours, during a Holiday Party which was held at the Balboa Park Club (Santa Fe Room). The party also featured the first annual "Green Innovation Awards" which recognized individuals for their efforts in environmental sustainability. In addition, it was a chance for constituents and guests to discuss past, current and future legislative issues of interest. The party was advertised on Saldana's website (www.assembly.ca.gov/76) and fliers (see attached) were sent to constituents. Interested attendees were requested to RSVP by calling Saldana's office or visit Saldana's website.

All guests attending the party were requested to sign in at the front door. Unbeknownst to Saldana's staff, several Minutemen attended the event. Two of the men were identified by the sign in sheet (see attached) as Gabriel Alfonso Pollack, ~~DOB 05-10-77~~, and Wesley Allen Baugh, ~~DOB 04-09-76~~. A wants/warrants and criminal history inquiry was requested through CHP dispatch (see attached). Both parties were clear of any wants/warrants; however, Pollack had an extensive criminal history (see attached).

During the awards presentation at approximately 1830 hours, District Director, Kirsten Clemons noticed a male (Pollack) with a "Minutemen" name-tag. She informed Field Representative Eddie Meyer of the potential problem. At the conclusion of the awards presentation, five members of the audience (5 men and 1 woman) approached Saldana at the podium and began asking questions regarding immigration issues. Pollack presented an audio recorder and identified himself as the leader of the Minutemen.

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
RAMOS #15196	12-13-07		

Jan-25-2008 04:44pm From-SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL

NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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INVESTIGATIVE NARRATIVE (CONTINUED)

Saldana attempted to answer some of the questions but Pollack and Baugh kept interrupting and did not allow her a chance to answer. Saldana informed Pollack that the occasion was a holiday event and requested he schedule a meeting at her office to discuss further issues. Pollack and Baugh persisted with their questions on further immigration issues, and again did not allow Saldana a chance to respond.

Field Representative, Eddie Meyer tapped Pollack on the shoulder and informed him this occasion was not the time or place to address those issues and asked them go outside. Pollack failed to leave and continued to ask more questions. Clemmons also tapped Pollack on the shoulder and asked them to leave. Pollack stated "you're touching me" and continued to ask more questions. They then went to the foyer where Saldana talked with them for several minutes. Due to their refusal to leave and confrontational demeanor Saldana directed Clemmons to notify CHP.

Shortly thereafter, Officer Valenzuela arrived on scene. Baugh, Pollack and the other individuals left the scene prior to Officer Valenzuela's arrival. Officer Valenzuela made contact with Saldana and obtained her statement. Saldana related she did not want to press any charges, however requested the incident be documented.

On 12-14-07, I responded to Saldana's district office to follow up on the incident. I contacted Clemmons and Meyer and obtained their statements. I discussed the reimbursable contract service with Clemmons and strongly urged her to consider the exclusive service the CHP provides for future public events involving Saldana. I asked if Baugh or Pollack were listed as constituents.

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RAMOS #15196	12-13-07		

Jan-25-2008 04:45pm From-SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL

NARRATIVE/SUPPLEMENTAL

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INVESTIGATIVE NARRATIVE (CONTINUED)

Meyer searched their data base and informed me Baugh was listed as a constituent but did not have any records on Pollack. Upon checking their data base, it appeared Baugh RSVP to the holiday party on 12-07-07 (see attached list). I informed Clemons to notify us for any upcoming scheduled events where Saldana would be present. This was not the first incident in which Baugh and Pollack have confronted Saldana. Baugh and Pollack were at a previous event where they attempted to attend an "Invitation only" meeting held at St. Paul's Episcopal Church, 2728 Sixth Ave. in San Diego on 11-16-07 (see attached report prepared by Officer M Gregg, #12733).

Notifications of the holiday incident were made to Anthony Castruita (Office of Dignitary Protection), ENTAC (Emergency Notification Threat Assessment Center), Sgt. Diana Straling (Threat Assessment Unit), Lt. Carter, # 9687 (San Diego CHP) and Sgt. L. Guzman, #11833 (San Diego CHP).

On 12-20-07, Officer Colin, #14922, and I contacted with Pollack at his business (Gabriel's Barber Shop) located at 1350 6th Ave. in San Diego and obtained a statement (see statements). I informed Pollack I needed to talk to Baugh as well. Pollack gave me his phone number (619) 220-2111 and called Baugh while I was there to let him know I needed to talk to him. Pollack handed me his cell phone and I spoke to Baugh briefly on the phone and informed him I just wanted to talk to him in regards to the incident and that I would be at his residence in 15 minutes. Baugh agreed to the meeting and stated he would be waiting for me.

After interviewing Pollack, we responded to Baugh's residence at 1501 2nd Street, San Diego, CA 92101. Upon arrival, Baugh was contacted in front of his driveway. During the initial contact, his wife and son (who live 4 houses down) arrived at our location. Baugh's wife and son were identified verbally as Helen Baugh and Fred Baugh. I informed Baugh the reason for my visit and obtained his statement. Fred Baugh informed me he was also at the holiday party.

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RAMOS #15196	12-13-07		

Jan-25-2008 04:45pm From:SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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STATEMENTS(in essence)

Pollack related he was notified of the holiday party by Baugh. Baugh told Pollack he received an invitation for the party and called Saldana's office to ask if he could bring some friends who were interested in attending. A representative (who was unidentified) from Saldana's office informed Baugh it would be okay and that it was open to the public. Pollack agreed to meet Baugh at the party. While at the party Pollack related they sat calmly through the awards presentation. At the conclusion of the awards presentation, he and Baugh along with Baugh's son (Fred Baugh), Baugh's grandson (Baron Valdez) and Stephen Schon, who came with Pollack, calmly approached Saldana and asked several questions in regards to immigration.

Saldana talked with them for several minutes and then walked out to the hallway where they continued their conversation. Saldana informed them this was a holiday party and requested they schedule an appointment with her office to discuss the issues further. Pollack related they were under the impression they would be able to discuss issues because the invitation indicated the public would have a chance to discuss past, current and future legislative issues of interest. Pollack obtained a business card from Meyer and related he would call to schedule a meeting.

I asked Pollack if he was a member of the Minutemen. Pollack stated he was not, however, he was an associate. Pollack further informed me he was the leader of the San Diego Citizen Brigade. I asked Pollack to tell me about his group and he stated they were against illegal immigration and businesses who hire illegal immigrants. They have demonstrated in the past at locations like Home Depot where people hire illegal immigrants for work. Pollack went on and talked about the problems of illegal immigration and related he has been trying to schedule a meeting with Saldana but was unsuccessful. I asked if he would be attending more of Saldana's functions and he stated, "Every one of them, and I will call you on which ones we will be attending."

PREPARER'S NAME AND I.D. NUMBER RAMOS #15196	DATE 12-13-07	REVIEWER'S NAME	DATE
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Jan-25-2008 04:45pm From SENATOR GIL CEDILLO

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CALIFORNIA HIGHWAY PATROL
NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCURRENCE	TINP (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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STATEMENTS (CONTINUED)

Pollack requested my business card which I provided. After interviewing Pollack we concluded the meeting without incident.

Baugh related he received an invitation in the mail for the Holiday party from Saldana's office. Baugh handed me the invitation which I noticed was addressed to his residence. Baugh called Saldana's office and asked if he could bring some guests. A representative told him it was okay. In addition, Baugh RSVP for the party as well. Baugh met Pollack at the party and brought his son, Fred Baugh and grandson, Baron Valdez. They signed in at the door and sat calmly through the awards presentation.

After the presentation, Baugh, his son (Fred Baugh), grandson (Baron Valdez) and Pollack approached Saldana and inquired if they could ask her some questions. Baugh stated they were not disruptive or aggressive in any way. Baugh referred to his invitation where it indicated they would have a chance to discuss past, current and future legislative issues. Saldana agreed to talk with them. They then walked into the hallway where the discussion continued. Saldana informed him that this was a holiday party and requested they schedule a meeting with her office to discuss further issues. Baugh obtained a business card from Field Representative, Eddie Meyer and left the party.

Baugh further informed me he has called Saldana's office in the past to try to book an appointment but has been unsuccessful. Baugh asked if I could try to book an appointment for them. I informed Baugh I would bring it to their attention. Baugh added he attended the party because he wanted to know why he was not able to attend the meeting which was held on 11-16-07, at St. Paul's Episcopal Church. I informed him that it was a closed meeting for invites only.

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
RAMOS #15196	12-13-07		

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CALIFORNIA HIGHWAY PATROL

NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
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STATEMENTS (CONTINUED)

Baugh, his wife and son went on to talk about immigration issues. I asked if he was part of the Minutemen. Baugh related he is not a member and that he acts only as a private citizen. He does not agree with some of the views of Minutemen. Baugh related he would continue to attend future events. I informed him of the concern from a law enforcement standpoint and that we would be at Saldana's future meetings. Baugh further stated he did not make any threats or physical contact with anyone. After interviewing Baugh, I concluded the meeting without incident.

RECOMMENDATIONS

At this time no charges will be sought against Baugh or Pollack. Upcoming events involving Saldana will have CHP presence. Additionally, visits to Saldana's district office will be conducted on a daily basis by San Diego Area SSP Officers. This report is for documentation purposes only.

ADDITIONAL INFORMATION

A site vulnerability assessment will be conducted by Officer Fosbennner and myself for Saldana's district office and residence.

PREPARED'S NAME AND I.D. NUMBER RAMOS #15196	DATE 12-13-07	REVIEWER'S NAME	DATE
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Jan-25-2008 04:41pm From-SENATOR GIL CEDILLO

916 327 8817

T-694 P.001 F-102

CAPITOL OFFICE
STATE CAPITOL, ROOM 5100
SACRAMENTO, CA 95814
TEL: (916) 651-4022
FAX: (916) 327-6817

DISTRICT OFFICE
617 S. OLIVE ST., SUITE 710
LOS ANGELES, CA 90014
TEL: (213) 612-9556
FAX: (213) 612-2551

California State Senate

SENATOR
GILBERT CEDILLO
TWENTY-SECOND SENATE DISTRICT



COMMITTEES
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SELECT COMMITTEES
IMMIGRATION AND THE ECONOMY, CHAIR
JOINT COMMITTEES
RULES

FAX SHEET

Telephone: 916/651-4022
Fax: 916/327-8817

DATE:

1/25/08

TO:

Will Kempton
Direct of DOT

FAX:

(654) - 66608

FROM:

Esmeralda Soria

RE:

Latino Caucus Letter

COMMENTS:

Confidential

NUMBER OF PAGES, INCLUDING COVER PAGE

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REPRESENTING THE CITIES OF LOS ANGELES, ALHAMBRA, MAYWOOD, SAN MARINO, SOUTH PASADENA AND VERNON

EXHIBIT 2

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